

## IOWA FINANCE AUTHORITY[265]

### Notice of Intended Action

#### **Proposing rule making related to wastewater and drinking water treatment financial assistance program and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to amend Chapter 28, “Wastewater Treatment Financial Assistance Program,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 16.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 512.

#### *Purpose and Summary*

The proposed amendments are intended to implement changes required by 2018 Iowa Acts, Senate File 512, including the addition of drinking water treatment facilities to the program.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 13, 2018. Comments should be directed to:

Mark Thompson  
Iowa Finance Authority  
2015 Grand Avenue  
Des Moines, Iowa 50312  
Phone: 515.725.4937  
Email: [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov)

#### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 14, 2018  
9 a.m.

Authority Offices  
2015 Grand Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **265—Chapter 28**, title, as follows:  
WASTEWATER AND DRINKING WATER TREATMENT FINANCIAL ASSISTANCE PROGRAM

ITEM 2. Amend rule 265—28.1(81GA,HF2782) as follows:

**265—28.1(81GA,HF2782 16) Overview.**

**28.1(1) ~~Statutory authority~~ Sources of funds.** ~~The authority to provide financial assistance to communities that must install or upgrade wastewater treatment facilities and systems is provided by 2006 Iowa Acts, House File 2782, section 63.~~ The wastewater and drinking water treatment financial assistance fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law.

**28.1(2) Purpose.** The purpose of the program is to provide grants financial assistance to enhance water quality ~~and to assist communities to comply with water quality standards adopted by the department of natural resources.~~ Financial assistance under the program shall be used for eligible costs to install or upgrade wastewater treatment facilities and systems, and drinking water treatment facilities and systems, including source water protection projects, and for engineering or technical assistance for facility planning and design.

ITEM 3. Amend rule 265—28.2(81GA,HF2782) as follows:

**265—28.2(81GA,HF2782 16) Definitions.**

“Authority” or “IFA” means the Iowa finance authority as established by Iowa Code chapter 16.

“Committee” means the water quality financing review committee consisting of the secretary of agriculture or the secretary’s designee, the executive director of the authority or the executive director’s designee, and the director of the department of natural resources or the director’s designee.

“Community” means a city, county, sanitary district, rural water district, or other governmental body empowered to provide sewage collection and treatment services or drinking water distribution and treatment in connection with a project. “Community” includes a utility management organization formed under Iowa Code chapter 28E or operated by a rural water system organized under Iowa Code chapter 357A or 504.

“Costs” means all expenses incurred by the recipient and determined by the authority as reasonable and necessary to carry out a project.

“Department” or “DNR” means the Iowa department of natural resources.

“Director” means the director of the authority.

“Disadvantaged community” means the same as defined in Iowa Code section 455B.199B.

“Program” means the wastewater and drinking water treatment financial assistance program created in 2006 Iowa Acts, House File 2782, section 63 2018 Iowa Acts, Senate File 512, section 4.

“Project” means the acquisition, construction, reconstruction, extension, equipping, improvement or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner and for drinking water infrastructure improvements, source

water protection, and other activities intended to facilitate public water supply system compliance and public health protection.

*"Recipient"* means the entity receiving funds from the program.

*"SRF"* means the state revolving fund, which is the Iowa water pollution control works and drinking water facilities financing program administered by IFA and DNR.

ITEM 4. Amend rule 265—28.3(81GA,HF2782) as follows:

**265—28.3(81GA,HF2782 16) Project funding.**

**28.3(1) *Recipient eligibility Approval of projects.*** ~~Communities eligible to apply for assistance shall meet the following criteria:~~ The committee will approve or deny applications for financial assistance. The committee will approve financial assistance from the fund in accordance with the priorities listed in subrule 28.3(2). The committee will determine the weighting of priorities on an annual basis.

*a.* ~~The project will serve a community that qualifies as a disadvantaged community as defined by DNR for the drinking water facilities revolving loan fund established in Iowa Code section 455B.295;~~

*b.* ~~The community is required to install or upgrade wastewater treatment facilities or systems due to regulatory activity in response to water quality standards adopted by DNR in calendar year 2006; and~~

*c.* ~~The population of the community served by the project is less than 3,000.~~

**28.3(2) *Project eligibility and priority.*** ~~Financial assistance is available for the upgrade or installation of wastewater treatment facilities and systems attributable to compliance with changes to the water quality standards adopted by DNR in calendar year 2006. Financial assistance shall be available under the program only for projects for which DNR determines that completion of the project, or a part of the project, is necessary for the community to meet water quality standards. Priority shall be given to projects in which the program financial assistance is used in connection with financing under the SRF, or is used in connection with other federal or state financing. Priority shall also be given to projects that will provide the most significant improvement to water quality; this criterion will be determined by the score given to a project by the department pursuant to the project priority rating system used for the water pollution control state revolving fund and set forth in 567—Chapter 91. Priority will be given:~~

*a.* ~~To projects in which a disadvantaged community is seeking financial assistance for the installation or upgrade of wastewater treatment facilities and drinking water treatment facilities.~~

*b.* ~~To projects whose completion will provide significant improvement to water quality in the watershed.~~

*c.* ~~To communities that employ an alternative wastewater treatment technology pursuant to Iowa Code section 455B.199C.~~

*d.* ~~To communities where sewer or water rates are the highest as a percentage of that community's median household income.~~

*e.* ~~To communities that employ technology to address the goals of the Iowa nutrient reduction strategy.~~

*f.* ~~To communities whose drinking water facilities and systems use as a supply, or to projects whose completion will improve, surface waters on the state's impaired waters list.~~

**28.3(3) *Applications Awards.*** ~~Applications will be accepted quarterly on forms developed by IFA and available at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov). Grants will be awarded quarterly. IFA will coordinate with other applicable state or federal financing programs when possible. Financial assistance in the form of grants will be issued on an annual basis. No recipient will receive a grant in excess of \$500,000.~~

**28.3(4) *Required matching funds.*** ~~Communities approved for financing shall provide matching moneys in the following amounts:~~

*a.* ~~Sewered communities and unsewered incorporated communities with a population of less than 500 shall provide a 5 percent match.~~

*b.* ~~Communities with a population of 500 or more but less than 1,000 shall provide a 10 percent match.~~

*c.* ~~Communities with a population of 1,000 or more but less than 1,500 shall provide a 20 percent match.~~

~~d. Communities with a population of 1,500 or more but less than 2,000 shall provide a 30 percent match.~~

~~e. Communities with a population of 2,000 or more but less than 3,000 shall provide a 40 percent match.~~

~~28.3(5)~~ **28.3(4)** *Costs.* All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed. ~~The applicant must declare how much of the total project costs are attributable to complying with the changes to the water quality standards adopted by DNR in calendar year 2006.~~

~~28.3(6)~~ **28.3(5)** *Record retention.* The recipient shall maintain records that document all costs associated with the project. The recipient shall agree to provide access to these records to the authority. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final disbursement of grant funds.

~~28.3(7)~~ **28.3(6)** *Site access.* The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements.

ITEM 5. Amend rule 265—28.4(81GA,HF2782), parenthetical implementation statute, as follows:

**265—28.4(81GA,HF2782 16) Termination; rectification of deficiencies; disputes.**

ITEM 6. Amend **265—Chapter 28**, implementation sentence, as follows:

These rules are intended to implement ~~2006 Iowa Acts, House File 2782, section 63~~ Iowa Code chapter 16 as amended by 2018 Iowa Acts, Senate File 512.